



OFFICE OF THE POLICE COMMISSIONER
ONE POLICE PLAZA • ROOM 1400

January 23, 2024

Memorandum for: Deputy Commissioner, Trials

Re: **Sergeant Randy Figueroe**
Tax Registry No. 941750
Bronx Court Section
Disciplinary Case No. 2022-27051

The above named member of the service appeared before Assistant Deputy Commissioner, Trials Paul M. Gamble, Sr., on October 2, 2023 and was charged with the following:

DISCIPLINARY CASE NO. 2022-27051

1. Said Sergeant Randy Figueroe, while off-duty and assigned to the 32nd Precinct, on or about August 27, 2022, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department to wit: Said Sergeant Figueroe engaged in a physical altercation with an individual known to the Department. *(As amended)*

P.G. 304-06, Page 1, Paragraph 1

PROHIBITED CONDUCT

2. Said Sergeant Randy Figueroe, while off-duty and assigned to the 32nd Precinct, on or about August 27, 2022, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department to wit: Said Sergeant Figueroe provided false information to Weehawken Police Officers after an off-duty incident. *(As added)*

P.G. 304-06, Page 1, Paragraph 1

PROHIBITED CONDUCT

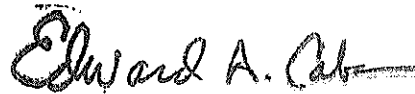
3. Said Sergeant Randy Figueroe, while off-duty and assigned to the 32nd Precinct, on or about August 27, 2022, failed to identify himself as a Police Officer in a timely manner after an off-duty incident. *(Dismissed)*

In a Memorandum dated November 9, 2023, Assistant Deputy Commissioner, Trials Gamble found Sergeant Figueroe guilty of Specification Nos. 1 and 2 after Sergeant Figueroa entered a plea of guilty to said specifications in Disciplinary Case No. 2022-27051. Having read the Memorandum and analyzed the facts of this matter, I approve of the findings, but disapprove the penalty.

I have considered the totality of the circumstances and issues concerning the misconduct for which Sergeant Figueroo has been found guilty, and agree that separation from the Department is warranted. However, instead of an outright dismissal from the Department, I will permit an alternative manner of separation from the Department for Sergeant Figueroo at this time.

It is therefore directed that an *immediate* post-trial settlement agreement be implemented with Sergeant Figueroo in which he shall forfeit thirty (30) suspension days (already served), forfeit thirty (30) suspension days (to be served), be placed on one (1) year dismissal probation, forfeit all time and leave balances, and immediately file for vested-interest retirement.

Such vested interest retirement shall also include Sergeant Figueroo's written agreement to not initiate administrative applications or judicial proceedings against the New York City Police Department to seek reinstatement or return to the Department. If Sergeant Figueroo does not agree to the terms of this vested interest retirement agreement as noted, this Office is to be notified without delay. This agreement is to be implemented ***IMMEDIATELY***.

A handwritten signature in black ink, reading "Edward A. Caban" with a stylized flourish at the end.

Edward A. Caban
Police Commissioner



POLICE DEPARTMENT

November 9, 2023

-----X

In the Matter of the Charges and Specifications	:	Case No.
- against -	:	2022-27051
Sergeant Randy Figuereo	:	
Tax Registry No. 941750	:	
Bronx Court Section	:	

-----X

At: Police Headquarters
One Police Plaza
New York, NY 10038

Before: Honorable Paul M. Gamble, Sr.
Assistant Deputy Commissioner Trials

APPEARANCES:

For the Department: Sadijah Johnson, Esq.
Department Advocate's Office
One Police Plaza, Room 402
New York, NY 10038

For the Respondent: Michael Dailey, Esq.
The Law Office of Michael F. Dailey
1 Riverdale Avenue
Bronx, NY 10463

To:

HONORABLE EDWARD A. CABAN
POLICE COMMISSIONER
ONE POLICE PLAZA
NEW YORK, NY 10038

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CHARGES AND SPECIFICATIONS

1. Said Sergeant Randy Figuereo, while off-duty and assigned to the 32 Precinct, on or about August 27, 2022, engaged in conduct prejudicial to the good order, efficiency, or discipline of the Department, to wit: said Sergeant Figuereo engaged in a physical altercation with an individual known to the Department. *(As amended)*

A.G. 304-06, Page 1, Paragraph 1

PROHIBITED CONDUCT

2. Said Sergeant Randy Figuereo, while off-duty and assigned to the 32 Precinct, on or about August 27, 2022, engaged in conduct prejudicial to the good order, efficiency, or discipline of the Department, to wit: said Sergeant Figuereo provided false information to Weehawken Police Officers after an off-duty incident. *(As added)*

A.G. 304-06, Page 1, Paragraph 1

PROHIBITED CONDUCT

REPORT AND RECOMMENDATION

The above-named member of the Department appeared before me on October 2, 2023. Respondent, through his counsel, entered pleas of Guilty to the subject charges and testified in mitigation of the penalty. The Department called Sergeant Cosmo Amato and Police Officer Daryl Pizzolato of the Weehawken, New Jersey Police Department as rebuttal witnesses. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review. Having evaluated all of the evidence in this matter, the Tribunal recommends that Respondent's employment be terminated.

SUMMARY OF EVIDENCE IN MITIGATION

Respondent pleaded guilty to Specification 1, admitting that he engaged in a physical altercation with his then-girlfriend on August 27, 2022. He also pleaded guilty to Specification 2, admitting that he falsely informed Weehawken police officers that his girlfriend was his sister (T. 43-47).

Respondent testified that on August 27, 2022, he was in New Jersey with his then-girlfriend. He recounted that they went to brunch, where, over two hours, they discussed ending their relationship so that he could reconcile with his wife and children. After brunch, they attended an event for a retired firefighter event across the street from the restaurant. They stayed at the event until it ended and then departed (T. 40-43).

Respondent testified that as they were leaving, he gave his girlfriend "the final goodbye, told her you are going to go your way, I'm going to go my way" (T. 44). According to Respondent, she then demanded to see his phone and began pulling at his shirt. He admitted that he pushed her away, causing them both to fall. He explained he was concerned that his girlfriend was trying to get his phone so she could call his wife to tell her that she and Respondent were out together; had she done so, it could have derailed his plan for managing the termination of this relationship and reuniting with his estranged wife (T. 45-46). Respondent testified that after they fell, he "wrapped [his] hands around her and helped her up" (T. 74). He heard police officers from the Weehawken Police Department yell, "Stop," before they approached them, and separated them.

Respondent admitted that he lied to the police officers when he told them that the woman was his sister (T. 47). While Respondent admitted to physical contact, he denied that he had her in a headlock and placed his hands around her neck (T. 74).

The Department called Sergeant Cosmo Amato and Police Officer Daryl Pizzolato of the Weehawken Police Department as rebuttal witnesses. On August 27, 2022, they were working an off-duty detail at the Weehawken Waterfront. Sergeant Amato testified that a vendor at the event informed him and Police Officer Pizzolato of a situation at the park entrance (T. 89-91).

As they approached, he observed "two individuals basically wrestling with each other ... [A] male with a female in a headlock." He stated that they both had their backs to him, that the female was bent over, and Respondent had her in a headlock under his arms (T. 91). He testified that he started yelling "stop," and the female pushed herself off from Respondent. He then stated Respondent "went to her throat, grabbed her by the throat, pushed her down to the ground," and then stood over her. Sergeant Amato explained Respondent appeared to be yelling something, and he could see that his body was tensed and that he was shaking (T. 92-93). He testified that he spoke with the female while Pizzolato talked to Respondent. He could not tell if she had any injuries based on the physical altercation he witnessed; she kept telling him nothing had happened and that she and Respondent were friends who met a few years ago (T. 95-96).

Police Officer Pizzolato testified that his initial observations were of the female on the ground on her back and Respondent standing over her (T. 126). He stated that two men were pointing in the general direction of Respondent, saying, "Get that guy, get that guy" (T. 128). He pulled Respondent to the side to speak with him; Respondent informed him he was an NYPD sergeant and that the woman was his sister. Respondent explained that they were arguing over plane tickets purchased for their mother on his credit cards without his knowledge. Pizzolato stated that during his questioning, Respondent admitted to pushing her onto the ground (T. 129-30). [REDACTED]

[REDACTED]

[REDACTED]

I credit Sergeant Amato's testimony that he observed Respondent holding a female in a headlock with his left arm, from which she was eventually able to extricate herself by pushing Respondent away. I also credit his testimony that he observed Respondent place his hands

around her neck and push her to the ground. While Counsel for Respondent attempted to suggest that Sergeant Amato could not have seen what he claimed to have seen and likely misinterpreted the actions he observed, I disagree.

I had the opportunity to observe Sergeant Amato's demeanor while questioned on direct and cross-examination. He was clear, concise, and forthcoming. Amato made these observations at a time and place without obstructions to his line of sight. His testimony regarding Respondent's actions was unambiguous and remained consistent, even under cross-examination. Amato's detailed description of Respondent standing over the female while his body was tensed and shaking appears consistent with an observation of someone in the middle of an angry physical confrontation, adding to his veracity.

Even though the 43-second video recording from Police Officer Pizzolato's body-worn camera (Resp. Ex. A) did not capture the actions Sergeant Amato testified that Respondent made, the credible evidence established that Pizzolato was behind Amato when he made those observations. My examination of the video revealed that Sergeant Amato was walking several feet in front of Pizzolato, to his left, toward an opening in the wrought iron fence. The first images of Respondent and his girlfriend appear on the recording to the left of the opening in the fence, at a point where only the right side of Amato's torso is visible. Pizzolato also testified that his first observation of the pair was of Respondent standing over her while she was on the ground, an observation which would have had to been made through the fence. While Counsel for Respondent argued that the video may have captured the earlier portion of the altercation, the images, if they were recorded, were not discernible to my eye; nevertheless, there is nothing on the video recording that contradicts either Pizzolato's, or Amato's testimony.

I find Respondent's testimony that he did not have his arm around his girlfriend's neck but was merely trying to retrieve his mobile phone from her to be self-serving, unreliable and calculated to minimize his responsibility for the acts he committed. I reject his description of the events based upon Sergeant Amato's credible testimony that Respondent placed his left arm around her neck, and then placed his hands around her neck, before pushing her to the ground.

I find Respondent's argument that his false assertion that the woman was his sister had no material effect on whether he would be charged with a domestic violence offense to lack any mitigating effect. Based upon Respondent's testimony, he made the representation knowing that it was untrue when he made it. I further find that he did so in an attempt to camouflage his conduct with his girlfriend from his wife's knowledge, believing that if she found out the truth, she might not reconcile with him. In that regard, the evidence supports a finding that Respondent made the false assertion willfully to serve his personal agenda.

PENALTY

In order to determine an appropriate penalty, this Tribunal, guided by the Department's Disciplinary System Penalty Guidelines, considered all relevant facts and circumstances, including potential aggravating and mitigating factors established in the record. Respondent's employment history was also examined (*See* 38 RCNY § 15-07). Information from his personnel record that was considered in making this penalty recommendation is contained in an attached memorandum.

Respondent, appointed to the Department on July 10, 2006, has pleaded guilty to a physical act of domestic violence. The Department Advocate has recommended termination; I concur.

The presumptive penalty for the commission of a physical act of domestic violence with a previous determination by the Department that the Member of Service committed a physical act of domestic violence is termination; the mitigated penalty is forced separation. The penalty for conduct prejudicial to the good order and efficiency of the Department has a range from training to termination.

I find the circumstances under which the misconduct was performed to be aggravating, as they would likely have an adverse impact on the mission and reputation of this Department. Respondent committed an act of domestic violence in public, which was witnessed by members of the public and two police officers from a fellow law enforcement agency.

I further find that lying to fellow police officers, despite Respondent's argument that the lie was not material to their later charging decision, was prejudicial to the good order and efficiency of this Department. In the fast-paced enterprise of fighting crime, this Department must often rely upon the cooperation of law enforcement partners. The value of those cooperative relationships is beyond measure. Respondent's misconduct threatens to undermine the trust necessary for those relationships to thrive; that he risked jeopardizing that trust in service to his attempt to manage his competing personal relationships is ignoble.

I find that alcohol was an aggravating factor in the altercation. While Respondent denied being intoxicated, he admitted having several beers with brunch and then attending a firefighter's event where he admitted to consuming more alcohol. Respondent's rank as a sergeant is another aggravating factor, as supervisors are held to an even higher standard of personal conduct than that of police officers.

While Counsel for Respondent has argued that Respondent's potential for rehabilitation is a mitigating factor, the evidence he proffered in support of that assertion does not establish

such mitigation. While Respondent has amassed an impressive list of assignments and professional recognition, his crime-fighting record cannot mitigate his off-duty misconduct.

Respondent has a formal disciplinary history. In 2012, he was found guilty of displaying a firearm during a 2008 dispute with his then-girlfriend and placing her in reasonable fear of physical injury, serious physical injury, or death. Respondent admitted to this conduct during his testimony at this hearing, although he initially described the misconduct as “she was menaced,” rather than acknowledging that it was he who menaced her (T. 26-27). In the prior case, Respondent was also found guilty of Harassment in the Second Degree (P.L. § 240.26[1]), admitting that he “may have” grabbed the victim by her hair and throat but only to get away from him during their argument. He forfeited 62 pre-trial suspension days and was placed on one-year dismissal probation (*Disciplinary Case No. 2009-84926* [March 5, 2012]).

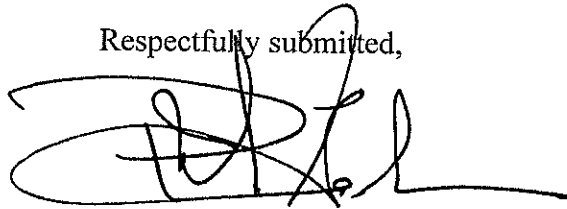
In this case, Respondent was again found guilty, based upon his plea, of a physical act of domestic violence. While he attempted to describe his physical contact with the victim as wrestling for his phone, the credible testimony of Sergeant Amato established that Respondent had the victim in a headlock, then grabbed her around the neck with both hands before shoving her to the ground. While the two disciplinary matters are separated by over a decade, Respondent apparently has not learned to conform his behavior to Department rules despite being provided an incentive and opportunity to do so during the earlier monitoring period. Under these circumstances, termination is warranted (*see Disciplinary Case No. 2020-22727* [March 3, 2022]; *Disciplinary Case Nos. 2018-19483, 2019-20376* [Apr. 29, 2021]).

While Respondent may have made significant contributions to the mission of this Department over his 17-year career, his inability to keep his personal affairs from devolving into violent confrontations overshadows his professional achievements. In 2012, Respondent was

certainly the beneficiary of an act of clemency, in that he was not terminated. He received a significant penalty, but managed to successfully complete a one-year period of monitoring. For him to appear before this Tribunal well over a decade later, having pleaded guilty to the commission of similar misconduct, accompanied by dishonesty, is both disappointing and tragic. Despite his professional accomplishments, the gravity of his misconduct is so serious that his continued service in this Department is untenable.

Accordingly, I recommend that Respondent be DISMISSED from this Department.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Paul M. Gamble, Sr.', written over a horizontal line.

Paul M. Gamble, Sr.
Assistant Deputy Commissioner Trials

DISAPPROVED

JAN 23 2024

EDWARD A. CABAN
POLICE COMMISSIONER



POLICE DEPARTMENT CITY OF NEW YORK

From: Assistant Deputy Commissioner – Trials

To: Police Commissioner

Subject: SUMMARY OF EMPLOYMENT RECORD
SERGEANT RANDY FIGUERO
TAX REGISTRY NO. 941750
DISCIPLINARY CASE NO. 2022-27051

Respondent was appointed to the Department on July 10, 2006. On his three most recent performance evaluations, he received a 4.0 rating of "Highly Competent" for 2022, and a 4.5 ratings of "Extremely Competent, Highly Competent" for 2020 and 2021. Respondent has been awarded two medals for Meritorious Police Duty and three medals for Excellent Police Duty.

From August 28, 2022, through September 26, 2022, Respondent was suspended without pay in connection with the instant matter,

In 2012, Respondent forfeited 62 suspension days and was placed on one-year dismissal probation for misconduct that was the subject of two cases, one of which involved a domestic dispute. In the first case, he was found guilty of (i) placing his girlfriend in fear of injury or death by displaying his firearm, and (ii) shoving or striking his girlfriend with intent to harass, annoy, or alarm her. In the second case, he pleaded guilty to failing to remain alert during his assignment.

For your consideration.

Paul M. Gamble, Sr.
Assistant Deputy Commissioner Trials